

# UDEQ VOLUNTARY CLEANUP PROGRAM

## FREQUENTLY ASKED QUESTIONS

***Is my site eligible for the Voluntary Cleanup Program?*** All sites are eligible except for the following: (1) storage, treatment and disposal facilities as defined by the Resource Conservation and Recovery Act (RCRA); (2) National Priority List (NPL) sites (Superfund) or portions of NPL sites; and (3) any portion of a site for which an administrative, state, or federal enforcement action is existing or pending against the applicant for remediation of contaminants described in the application.

***What are examples of “enforcement actions” that would result in ineligibility for the program?*** Applicants who have owned or operated a site who have received “Notices of Violation” which have not been satisfactorily cleared (current enforcement actions), or are under investigation for potential violations (pending enforcement actions) or sites currently under state or federal corrective action measures are all examples of ineligible sites/applicants. Should you have any question as to whether you or your site is eligible, please call the UDEQ VCP coordinator.

***As a prospective property purchaser or developer of a contaminated property, am I an eligible applicant?*** Yes, unless any of the three conditions described above apply to you or the property considered for voluntary cleanup.

***Is there an application fee and what is it used for?*** Yes, there is a \$2,000 application fee, required at the time of application. The application fee is used to cover UDEQ’s administrative costs for processing and reviewing the VCP application for eligibility and review of the required environmental assessment.

***How long does it take to get my application reviewed and approved and are there time frames and deadlines for the applicant or UDEQ?*** Applications may be submitted during regular UDEQ business hours (8:00 a.m. - 5:00 p.m., Monday - Friday). There are no deadlines for the review and acceptance process other than that “the department shall take action on the application in the order in which it is received, but in all circumstances within 60 days of the receipt of the application by the department” (U.C.A. 19-8-107 (4)). Generally, the eligibility review takes 5 working days, as coordination between all 6 UDEQ divisions must occur. If an application is “ineligible” a letter will be sent to the applicant explaining the reason(s) for ineligibility, and the application fee will be returned. If “eligible”, the environmental assessment will be then be reviewed. Review time for the environmental assessments will vary depending on the length and quality of the environmental assessment. This generally takes about 15 working days. At the conclusion of the review process, a letter will be sent to the applicant indicating any deficiencies in the environmental assessment and/or requesting a meeting to negotiate the Voluntary Cleanup Agreement.

***What do I get at the end of the process?*** At the successful completion of the terms of the Voluntary Agreement, a “Certificate of Completion” is issued to the applicant. This provides a release of liability under subsection (3)(a) of U.C.A. 19-8-113. This release of

liability is not available to owners or lenders who were originally responsible for a release or contamination described in U.C.A. 19-8-113 (3)(b)(I-ii).

***Is the “Certificate of Completion” transferrable to subsequent property owners?*** Yes. It also protects future lenders on the property from state liability for environmental contamination addressed under the Voluntary Agreement.

***Is the federal Environmental Protection Agency involved in the state program in any way?*** The federal EPA is not involved in the state VCP program. UDEQ would like to negotiate a Memorandum of Understanding (MOU) with EPA Region VIII. Under an MOU, it is hopeful that EPA would recognize and accept successful voluntary cleanups done under a voluntary agreement with UDEQ as final actions.

***Am I protected from federal liability through participation in the State VCP?*** No, there is no protection from federal liability through participation. However, it is UDEQ’s belief that successful site cleanups under the state VCP may minimize a parties potential federal liability for environmental cleanup.

***How much does UDEQ oversight under the Voluntary Agreement cost?*** UDEQ charges actual costs for agency oversight of the work to be done under a voluntary agreement. Costs may include personnel time for negotiating an agreement, document reviews and discussions, field oversight, analytical costs, or other non-personnel and administrative costs.

***Are there any enforcement provisions in the Voluntary Agreement?*** No. This is intended to be a completely voluntary cleanup program. The agreement may be terminated by either party at any time with a 15 day written notice. UDEQ may use any or all available authorities to require or compel site cleanup if necessary at that point.

***By voluntarily conducting a site cleanup under the UDEQ VCP, do I limit my ability to cost recover from other responsible parties?*** No, the statute specifically maintains the right of an applicant to seek cost recovery allowable by law.

***I’ve already cleaned up a site on my own. Am I eligible to participate so that I can receive a “Certificate of Completion” after-the-fact?*** If your cleanup action was completed prior to May 5, 1997, and if you and your site meet the eligibility requirements outlined in the statute, you are eligible for participation.

***If I change my mind and wish to withdraw my application at any time, is the application fee refundable?*** The application fee will only be refunded if the application is determined to be ineligible for participation in the program.

***Who do I call if I have any questions on the program or application process?*** You may call the Department of Environmental Quality, Voluntary Cleanup Program Coordinator during regular business hours at (801) 536-4100 for more information or check out the UDEQ homepage at <http://www.eq.state.ut.us/eqerr/errhmpg.htm>.